

सं. प्रो. वि./अम्बाला/52-85/21149.—चूंकि हरियाणा के राज्यपाल की राय है कि मै० मारकण्डा बनस्पति मिलज लि०, जी. टी. रोड़, शाहबाद मारकण्डा, जिला कुरुक्षेत्रा, के श्रमिक श्री लेख राज तथा उसके प्रबन्धकों के मध्य इसमें इसके बाद लिखित मामले में कोई औद्योगिक विवाद है ;

और चूंकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय निर्दिष्ट करना वांछनीय समझते हैं ;

इसलिए, अब, औद्योगिक विवाद अधिनियम, 1947, की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुए, हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं. 3(44)84-3-अम, दिनांक 18 अप्रैल, 1984 द्वारा उक्त अधि निदम की धारा 7 के अधीन गठित श्रम न्यायालय, अम्बाला, को विवादग्रस्त या उससे सम्बन्धित नीचे लिखा मामला न्यायनिर्णय के लिए निर्दिष्ट करते हैं, जो कि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है या विवाद से सुसंगत अथवा संबंधित मामला है :—

क्या श्री लेख राज की सेवाओं का समापन न्यायोचित तथा ठीक है ? यदि नहीं, तो वह किस राहत का हकदार है ?

जे० पी० रतन,

उप सचिव, हरियाणा सरकार,

श्रम विभाग ।

दिनांक 10 मई, 1985

सं० प्रो० वि०/एफ. डी./30-85/20889.—चूंकि हरियाणा के राज्यपाल की राय है कि मै० ओरियन्ट इलेक्ट्रीकल इन्सुलेशन प्रा० लि०, प्लॉट नं० 50, इण्डस्ट्रीयल ऐरिया, एन. आई. टी. फरीदाबाद, के श्रमिकों तथा प्रबन्धकों के मध्य इसमें इसके बाद लिखित मामले के सम्बन्ध में कोई औद्योगिक विवाद है ;

और चूंकि राज्यपाल, हरियाणा इस विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं ;

इसलिए, अब, औद्योगिक विवाद अधिनियम, 1947, की धारा 10 की उपधारा (1) के खण्ड (घ) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुए, हरियाणा के राज्यपाल इसके द्वारा उक्त अधिनियम की धारा 7-क के अधीन गठित, औद्योगिक अधिकरण, हरियाणा, फरीदाबाद, को नीचे विनिर्दिष्ट मामले, जो कि उक्त प्रबन्धकों तथा श्रमिकों के बीच या तो विवादग्रस्त मामला/मामले हैं, अथवा विवाद से सुसंगत या सम्बन्धित मामला/मामले हैं/हैं, न्यायनिर्णय हेतु निर्दिष्ट करते हैं :—

1. क्या दिनांक 10 अक्तूबर, 1984 से प्रबन्धकों द्वारा की गई तालाबन्दी उचित है ? यदि नहीं तो किस विवरण में ?
2. क्या संस्था के श्रमिक तालाबन्दी के समय के बोनस सहित काम पर आने के हकदार हैं ? यदि हाँ, तो किस विवरण से ?

एम० सेठ,

वित्तायुक्त एवं सचिव, हरियाणा सरकार,

श्रम तथा रोजगार विभाग ।

LABOUR DEPARTMENT

The 3rd May, 1985

No. 9/5/84-6Lab/3273.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of The General Manager, Haryana Roadways, Kaithal.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA AT AMBALA CITY (HARYANA)

Reference No. 170 of 1984

Old No. 255 of 1982

SHRI KANWAR PAL, WORKMAN AND THE MANAGEMENT OF THE GENERAL MANAGER, HARYANA ROADWAYS, KATHAL (HARYANA)

Present :

Shri Rajeshwar Nath, for the workman.

Shri A. R. Goyal, for the respondent.

AWARD

The Hon'ble Governor of Haryana in exercise of the powers conferred,—vide clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute to the Presiding Officer, Labour Court, Faridabad between Shri Kanwar Pal, workman and the management of the General Manager, Haryana Roadways, Kaithal. The terms of the reference are as under :—

"Whether the termination of services of Shri Kanwar Pal, workman, was justified and in order? If not, to what relief is he entitled to?"

The present reference was originally made by the Hon'ble Governor of Haryana for adjudication to the Presiding Officer, Labour Court, Faridabad thereafter on creation of new Labour Court at Ambala in April, 1984 this reference was received by transfer.

Workman Kanwar Pal alleged that he served the respondent-management as a Mechanical Helper for the last 8 years in other words he joined services of the respondent in 1974. His services were terminated with effect from 25th August, 1982 illegally in violation of Section 25(F) of the Industrial Disputes Act, 1947.

Notice was issued to respondent. Respondent appeared and contested the case. He contended that workman Kanwar Pal was employed on temporary basis as a Mechanical Helper. His services were never regularised. He used to work on daily wages. His services likely to be terminated at any time without assigning any notice or reason. Services of applicant were terminated as being no longer required, and the order of termination is justified.

On the pleadings of the parties the following issues were framed :—

Issue No. 1

As per reference ?

I have heard Shri Rameshwar Nath for workman and Shri A. R. Goyal for respondent-management and have perused the oral as well as documentary evidence placed on the file. My issuewise findings are as under :—

Issue No. 1.

Respondent examined Shri Prem Chand Joshi who brought the records and stated that Kanwarpal, workman was employed on 29th October, 1974. Month-wise orders had been issued. His services were terminated on 31st March, 1982 thereafter some persons were recruited through Employment Exchange. In cross-examination he stated that he cannot say whether Shri Raghbir Singh, Lahna Singh were junior to him and they were retained in service. At least this witness frankly admitted that no notice, no wages in lieu of notice period and no retrenchment compensation was paid to him.

When Kanwarpal appeared in witness box as AW-1 he deposed that he joined services of management in 1974. Lahna Singh, Raghbir Singh and Zile Singh who were junior to him were retained in service. His services were terminated without showing any cause or reason. He further stated that he used to get regular pay with regular staff without any break in service.

In view of above evidence of the parties it is evident that Kanwar Pal, workman had been working on daily wages. He served respondent for a period of 4 years and 5 days without any stigma attached in his service. Cession of work, absence from duty on account of illness, illegal strike, lock-out does not mean any break in service in view of judicial pronouncement 1981-Vol-II-SLR-Page 11 (Supreme Court) Manohar Lal Vs. The management of Messrs Bharat Electronic Ltd.

The other direct judicial pronouncement is Santosh Gupta Vs. Management. Reported in 1980-LLJ-Page 689 (SC).

From the evidence it is also proved that the workman served management more than 240 days. It was admitted by MW-1 that before termination of services of Shri Kanwar Pal no notice, no wages for the period of notice and no retrenchment compensation were given to him. No information was furnished to the appropriate authority regarding the termination of service of Shri Kanwar Pal, workman.

It is also evident that certain juniors helpers were working at the time of termination of Shri Kanwar Pal. So the principle of last come first go was also not observed. In view of my above discussions and on the basis of evidence on the file and law cited above I reach at the conclusion that

termination order, dated 25th May, 1982 regarding the service of Shri Kanwar Pal, workman is illegal and arbitrarily and not sustainable. Hence, declared void and unjustified, so this issue is decided against the management and, in favour of Shri Kanwar Pal, workman.

Relief :

For the foregoing reasons and on the basis of my findings on issue No. 1, I order the reinstatement of Shri Kanwar Pal, workman with continuity of service, with full back wages and all other benefits to which he would have been entitled to him while in service.

I pass my award regarding the controversy in hand accordingly.

Dated the 20th March, 1985.

• V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endst. No. 798, Ambala City, dated the 28th March, 1985.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala,

M. SETH,

Secretary to Government, Haryana,
Labour and Employment Department.